

State of Minnesota, by Michael Campion,
its Commissioner of Public Safety,

Court File No. 0:08-cv-00603-DWF-AJB

Plaintiff,

V.

CMI of Kentucky, Inc.,
A Kentucky Corporation,

**DECLARATION OF JOHN J. GORES
IN OPPOSITION TO DEFENDANT’S
MOTION FOR SUMMARY
JUDGMENT AND IN SUPPORT OF
OF THE STATE’S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND AN INJUNCTION**

Defendant

Robert J. Bergstrom, Craig A. Zenobian,
Shane M. Steffensen and Christopher D.
Jacobsen,

Plaintiffs-Intervenor

STATE OF MINNESOTA)
) SS
COUNTY OF ANOKA)

John J. Gores being duly sworn on oath, states and alleges as follows:

1. I am the attorney representing the Plaintiffs-Intervenor in this matter and offer this Declaration in opposition to Defendant's Motion for Summary Judgment and in Support of the State's Motion for Partial Summary Judgment and an Injunction.

2. A true and correct copy of the State of Minnesota Request for Proposal, Titled “Evidentiary Breath Alcohol Test Instruments,” is marked as **Ex. 1.**

3. A true and correct copy of CMI, Inc.’s Response to the State of Minnesota Request for Proposal, dated October 25, 1996, is marked as **Ex. 2.**

4. A true and correct copy of CMI, Inc.’s signed acknowledgement of the State of Minnesota Request for Proposal is marked as **Ex. 3.**

5. A true and correct copy of the State of Minnesota Notification of Contract Award is marked as **Ex. 4.**

6. A true and correct copy of all known written amendments to the contract between CMI, Inc. and the State of Minnesota is marked as **Ex. 5.**

7. A true and correct copy of the transcript of the November 6, 2007 testimony of Mr. Glenn Hardin in *Quigley v. Comm’r of Pub. Safety*, Sherburne County District Court File No. CO-07-506 is marked as **Ex. 6**

8. A true and correct copy of the transcript of the June 23, 2008 testimony of Mr. Glenn Hardin in *State v. Hunter*, Sherburne County District Court File No. CO-08-715 is marked as **Ex. 7.**

9. A true and correct copy of the April 24, 2007 E-mail correspondence between Plaintiff and Defendant and a true and correct copy of the September 27, 2006 E-mail correspondence between Plaintiff and Defendant is marked as **Ex. 8.**

10. A true and correct copy of the October 17, 1007 order requiring production of the source code in *Bergstrom v. Comm’r of Public Safety*, Hennepin County District Court File No. 27-CV-8280 marked as **Ex. 9.**

11. A true and correct copy of the December 18, 2007 order requiring production of the source code in *Zenobian v. Comm’r of Public Safety*, Carver County District Court File No. CV-07-1076 marked as **Ex. 10**.

12. A true and correct copy of the December 4, 2007 order requiring production of the source code in *Steffensen v. Comm’r of Public Safety*, Carver County District Court File No. 10-CV-06-1036 is marked as **Ex. 11**.

13. A true and correct copy of the April 25, 2008 order requiring production of the source code in *State of Minnesota v. Steffensen*, Carver County District Court File No. 10-CR-06-905 is marked as **Ex. 12**.

14. A true and correct copy of the March 25, 2008 order requiring production of the source code in *State of Minnesota v. Jacobsen*, Anoka County District Court File No. 01-CR-07-370 is marked as **Ex. 13**.

15. A true and correct copy the October 31, 2008 Declaration of Thomas E. Workman, Jr. is marked as **Ex. 14**.

16. A true and correct copy the May 6, 1986 United States Patent assigned to Defendant CMI, Patent Number 4,587,427 is marked as **Ex. 15**.

17. A true and correct copy of excerpted pages from the June 20, 2008 Evidentiary Hearing in *State of Arizona v. Daughters-White*, Arizona Superior Court in and for the County of Pima, Court File No. CR-20071798 is marked as **Ex. 16**.

18. A true and correct copy of the November 10, 2008 *Tucson Citizen* article “Thousands of Tucson-area DUI cases may get boot” is marked as **Exhibit 17**.

19. A true and correct copy of the slip opinion in *Thomsen v. Famous Dave's of America, Inc.*, 2009 WL 397972 (D. Minn. 2009) is marked as **Ex. 18**.

GORES LAW OFFICE.

Dated: May 15, 2009

/s/ John J. Gores
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